

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

ANDREW McCUTCHAN,

Plaintiff,

v.

Case No.: 15-cv-368

JANESVILLE SCHOOL DISTRICT,

Defendant.

COMPLAINT

Plaintiff Andrew McCutchan, through his attorney Timothy D. Edwards of Relles & Milliken LLP, respectfully submits his Complaint in the above-referenced matter and in support alleges as follows:

THE PARTIES

1. Plaintiff Andrew McCutchan ("McCutchan") is an adult resident and citizen of the State of Wisconsin who resides at 2423 Quail Ridge Drive, Janesville, Wisconsin, 53546.
2. For the past three years prior to the filing of this Complaint until the present date, McCutchan has been an employee of Defendant Janesville School District (the "District").
3. At all times pertinent to this Complaint the District was a public school district located in Janesville, Wisconsin with its principal office at 27 South Franklin Street, Janesville, Wisconsin, 53548.
4. At all times pertinent to this Complaint the District was McCutchan's "employer" as defined by 29 U.S.C. § 203(v).

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this matter because McCutchan's Complaint raises a federal question pursuant to the Fair Labor Standards Act (the "FLSA"), 29 U.S.C. § 201 *et seq.* and 28 U.S.C. § 1331.

6. Venue is proper in this Court because all of the acts, practices, violations, omissions, and transactions complained of below took place in the Western Judicial District of Wisconsin.

FACTUAL ALLEGATIONS

7. Throughout the time McCutchan was employed by the District, he was entitled to the rights, protections, and benefits provided by the Fair Labor Standards Act ("FLSA").

8. For at least three (3) years prior to the filing of this action and continuing to the present date, the District required or permitted McCutchan to perform work and, in turn, promised compensation to McCutchan for said work.

9. At all times pertinent to this Complaint, McCutchan was a non-exempt employee for the District under the FLSA and was, therefore, entitled to the protections of the FLSA, including its overtime provisions.

10. At all times pertinent to this Complaint, the District misclassified McCutchan as an exempt employee under the FLSA in order to avoid its obligation to pay overtime compensation to McCutchan.

11. At all times pertinent to this Complaint, the District knew that McCutchan was being denied wages as a result of this misclassification and that McCutchan was being denied overtime compensation as a result. Therefore, the District's failure to pay McCutchan owed overtime wages was willful.

COUNT I
(Violation of FLSA)

12. McCutchan incorporates and realleges the preceding paragraphs of this Complaint as though fully set forth here.

13. The District has knowingly and willfully required, suffered or permitted McCutchan to work without proper overtime compensation.

14. The District has not compensated McCutchan for the overtime work described in the previous paragraphs in an amount to be determined at trial.

15. As a result of the District's willful violations of the FLSA, McCutchan has suffered substantial losses including, but not limited to, overtime wages, and interest, for the three years preceding the filing of this Complaint in an amount to be proven at trial.

16. As a result of the District's willful violations of the FLSA, McCutchan is entitled to all relief afforded by the FLSA, including overtime wages, compensatory liquidated damages and punitive damages in an amount to be proven at trial

PRAYER FOR RELIEF

FOR THE FOREGOING REASONS McCutchan respectfully requests that this Court grant the following relief against the District:

- A. An Order requiring Defendant to make a complete and accurate accounting of all compensation owed to Plaintiff;
- B. A Judgment declaring the District has willfully, intentionally and wrongfully violated the FLSA and deprived McCutchan of earned salary and commission;

- C. An Order granting McCutchan his reasonable attorney's fees, costs and expenses;
- D. A Judgment against the District for compensatory damages, punitive damages, and liquidated damages, as fully set forth above; and
- E. An Order granting such other relief as permitted under the FLSA including, but not limited to, unpaid wages, compensatory damages, pre and post-judgment interest for all sums owed.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial pursuant to the Seventh Amendment of the Federal Constitution and Rule 38(a), Fed. R. Civ. P.

Dated this 16th day of June, 2015.

RELLES & MILLIKEN LLP



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